EXHIBIT 5

Filed Under Seal

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE:	) No. 0:18-cv-01776-JRT-HB
PORK ANTITRUST LITIGATION	) VIDEOTAPED DEPOSITION OF DWIGHT MOGLER

THE VIDEOTAPED DEPOSITION OF DWIGHT MOGLER, taken before Chris A. Quinlin, Registered Professional Reporter and Notary Public of the State of Iowa, commencing at 9:01 a.m., July 22, 2022, at 801 Grand Avenue, 33rd Floor, Des Moines, Iowa.

Reported by: Chris A. Quinlin, R.P.R.

to be used as a wean-to-finish, but if it's built to accommodate weaned pigs, it by default is also -- it meets the criteria for being a grow-finish barn as well.

Q. Okay. But if you're a producer and you want to specialize in farrowing, you can do that. You can specialize in just one segment of the business.

A. That is correct.

Q. And similarly, if you owned a nursery facility, you could specialize in -- in purchasing weaner pigs and selling feeder pigs if you wanted to?

A. If you wanted to.

Q. Yeah.

A. Typically it would be as a contract feeder, but it is possible to just buy and sell quickly as a -- buying a weaned pig and selling a feeder pig, yes.

Q. And then if you're a producer that wants to focus on finishing, you can just focus on finishing?

A. That is correct.

Q. Okay. How many hogs do you currently market per year for your operation?

A. 2022 our target will be 220,000.
Q. And how many of those hogs would you intend to sell on the spot market versus under a marketing agreement?
A. We would intend to sell during this calendar year 8 percent.
Q. 8 percent on the spot market?
A. That is correct.
Q. Okay. So you're going to sell somewhere less than 20,000 head on the spot market?
A. That is correct.
Q. And the rest of your hogs are going in under a marketing agreement?
A. That is correct.
Q. Who do you have marketing agreements with?
A. We have four separate marketing agreements. The largest marketing agreement we have is with Hormel Foods. And those live pigs are delivered to their harvest facility in Austin, Minnesota.
The second largest is with Prestage Foods. And they have a harvest facility in Wright County, Iowa, near Eagle

Grove.
The third marketing agreement we have is with Wholestone Farms. And their harvest facility is in Fremont, Nebraska.
And then the fourth agreement we have is with what I call a third party, Big Stone Marketing. But Big Stone Marketing has an agreement with JBS Swift at their harvest facility in Worthington, Minnesota.
Q. Okay. So if I'm going to break that down, your pigs are going to four plants?
A. That is correct.
Q. You have some pigs going to Hormel Foods in Austin, Minnesota?
A. Correct.
Q. You have some pigs going to JBS in Worthington, Minnesota?
A. Correct.
Q. You have some pigs going to Prestage in Iowa -- excuse me --
A. Eagle Grove.
Q. Eagle Grove, Iowa. And then you have some pigs going to Tyson?
A. Wholestone Farms.
Q. Wholestone at Fremont?

A. At Fremont, Nebraska. That is correct.
Q. Okay. And why -- And then you sell some pigs in the spot market?
A. Yes. And then we would have a small percentage -- now, a little seasonal here, and there's reasons for it, but actually, beginning in August we will have closer to 15 percent of our pigs being marketed in the open market, but on average for the calendar year it will be 8 percent.
Q. Okay. Now, in addition to the four different packers that you market your hogs to --
A. Yes.
Q. -- you could also market hogs to Tyson?
A. That is correct.
Q. Tyson has plants in proximity to you?
A. Yes.
Q. At Storm Lake?
A. Yes. And Madison, Nebraska, would be the second closest Tyson plant. And we have actually delivered over the years to four different Tyson plants.
Q. Okay. So you currently have contracts to deliver to four different processing plants,

Q. Seaboard is a buyer?
A. Correct.
Q. Prestage is a buyer?
A. Correct.
Q. Hormel is a buyer?
A. Correct.
Q. Any others?
A. You had mentioned HyLife.
Q. Yep.
A. Previously known as Prime Pork before the HyLife acquisition or investment. In addition to that, I refer to them as Sioux-Preme, but they are Natural Food Holdings, which is part of the -- I'm drawing a blank here right now. Perdue. Perdue Family Farms in Sioux Center, Iowa. We market pigs there occasionally.

We also seek out bids from Smithfield's facility -- harvest facility in Denison, Iowa. In addition to the Tyson plant in Storm Lake, Iowa, and Madison, Nebraska, we have also delivered pigs in the past to Waterloo, Iowa, as well as on one occasion Columbus Junction, Iowa.

JBS Swift has a harvest facility

in Marshalltown, Iowa. We have shipped pigs there before. Triumph Foods, independent of Seaboard, has a harvest facility in St. Joseph, Missouri. We have shipped pigs there. On one very rare occasion we have actually shipped pigs to Seaboard's facility in Guymon, Oklahoma.

And then in addition to that, there would be a Smithfield plant in Crete, Nebraska, but I think I pretty much have exhausted most of the logistically feasible harvest facilities that we could ship truckload quantities of pigs to.

Q. So that sounds like over a dozen different market outlets for your market hogs.

A. Absolutely. Yes.

Q. Now, when you sell cull hogs, cull hogs go to different buyers; right?

A. Correct. So the cull hog market, because they are shipped in smaller quantities, go to companies that are more of a brokerage or a -- I call them jobbers.

So they have delivery points where they assemble large groups of hogs so that they can be then further transported in truckload quantities to harvest facilities that

harvest what I would call -- well, it's both for sows as well as for cull -- cull pigs, which are very safe and very -- you know, enter the food system and are inspected by USDA officials, but they are nontraditional carcass sizes and nontraditional grades of pork.

Q. Okay. So for your cull sows, where do the cull sows go?

A. So we market to two markets. And they're both collection points. One is Heinold. Heinold has a collection point just north of Sheldon, Iowa, along U.S. Highway 60 or Iowa Highway 60. And then the other one would be to Lynch. And they would have a collection facility in Sibley, Iowa. Those would be the predominant locations for cull sows.

Q. And -- And Heinold and Lynch, they operate processing facilities that process cull animals?

A. To my knowledge, Heinold does not, but Lynch does. But both of those organizations don't necessarily -- well, in Lynch's situation, they do not harvest all the pigs they buy. They do resell to other harvesters. And I'm pretty sure Heinold exclusively resells, because I do

not think Heinold owns a harvest facility.
Q. Okay. So coming back to your own sales, from a marketing agreement standpoint, you have four marketing agreements currently. And it sounds like you have a fifth one coming online this fall with Tyson; right?
A. Correct. Correct.
Q. Why is it that you spread your sales out among five different packers instead of just contracting with one?
A. It's one way that we manage counterparty risk, knowing that we go through on a regular basis a renegotiation of marketing agreements. And so not only does it allow us to negotiate from a point of strength when we negotiate marketing agreements, but it also gives us a great opportunity to differentiate between the various relationships. And some relationships expand over time and some relationships diminish over time.
Q. Do the packers compete for the opportunity to receive your market hogs?
A. Absolutely they do.
Q. And you maintain relationships with four or five of them at any given time just to

make sure you're maintaining that contact?

MR. JAGHER: Objection to form.

A. We would maintain relationships with perhaps seven packers at any one time. And so we would have certain ones who we would put on our prospect list.

Q. Okay. What is a meat matrix, also called a meat grid? What is that?

A. So that would be a way that a pork processor or harvest facility would differentiate values of the carcass. The most important method of differentiation is the actual carcass weight, meeting a specific weight target. And then the second method is typically back fat thickness, which is an indicator of leanness. And then the third one would be loin depth.

And so there are various tools used in the industry to measure that at line speed at these facilities, but those would be the three primary drivers of the meat grid.

Q. Okay. So packers will pay premiums or take a discount based on where the carcass falls on their meat grid?

A. Absolutely. Correct.

that through tools available in the marketplace to protect revenue for a future delivery of a pig through futures markets, the CME, and also be able to protect the cost of a future purchase of a feedstuff, such as Chicago Board of Trade on corn and soybean meal.

Q. So essentially you saw what was coming with ethanol. You went out and acquired a grain elevator; right?

A. We built a grain elevator.

Q. Yep. And then you began taking positions to try to protect yourself from the price risk?

A. A very pivotal moment in our method of managing risk. Prior to that we did not participate in futures markets because we managed risk by having a high level of confidence in the stability of feed costs and the price discovery process on the -- on pigs.

And you can go back and track Iowa State data, and it would show you that very typical, three quarters of profits in a pig -- in a farrow-to-finish model with one quarter of losses, and the three quarters of profits would exceed the one quarter of losses. And so when

we would have a price cycle, often referred to as the hog cycle, the market responded very quickly by adjusting supply of pigs to counteract downturns in prices.

Q. Okay. Let me ask you about that, the hog cycle.

A. Yes.

Q. The hog cycle refers to the fact that there are periods where you make money in the pork business, in the hog business, and then there's a period where you lose money?

A. That is correct.

Q. And what is the typical span from the beginning to end of a hog cycle? How many years?

A. There's a lot of debate of whether it's the same today as what it used to be, because of the dynamics of the global marketplace. And so global factors have become more impactful, and so hence the debate of what the correct answer is to that.

It used to be a four-year cycle. And I think you could make the case that it has been extended to an eight-year cycle today.

Q. Okay. But when we talk about a cycle,

what we're talking about is there will be a period in time where producers are making money on pigs.

A. Yeah.

Q. And so they will expand their operations.

A. Yep.

Q. Right?

A. Yes.

Q. And --

MR. JAGHER: Objection to form.

Q. And then the supply of -- the supply of pork gets bigger, to the point where the producers are no longer making as much money --

A. Correct.

Q. -- or maybe even losing money?

A. Correct.

Q. And so then they pull back on their production?

A. Correct.

Q. And so then you go through a period of time where the herd may be declining?

A. Correct.

Q. And then eventually the margins improve again, so the producers re-enter the market and

start producing again?
A. Correct. And you're speaking in aggregate, the entire industry.
Q. Yes. Yes.
A. Then yes, that is correct.
MR. JAGHER: Objection to form.
Q. So the way that would look -- the way this would look visually, if we wanted to plot the hog cycle over time --
A. Correct.
Q. -- it would be like a ball bouncing up and down?
A. That is correct. That is correct.
Q. And throughout that time period, if we go back to the late 1970s when your family got involved in production --
A. Correct.
Q. -- the size of the industry has expanded?
A. Correct.
Q. And so --
A. Well, the size as far as total pounds of production.
Q. Yes.
A. But actually, the size of the U.S. sow

herd has continued to shrink because of productivity increases.
Q. Okay.
A. So it depends on how you measure size.
Q. Right. So if we go back to the late 1970s, we were producing fewer pigs per litter.
A. Correct.
Q. So we needed more sows to feed that demand.
A. Correct. Correct.
Q. Today we're producing more pigs per litter, so we actually can do it with less sows.
A. That is correct.
Q. And then we're marketing a larger weight animal, so the total pounds to produce is higher.
A. That is correct. That is correct.
Q. So if we look at this in terms of -- if we -- if we wanted to visualize this, based on the pounds of pork produced, with the hog cycle it would be like a ball bouncing slowly uphill; right?
A. That is correct.
Q. And there would be periods going all the way back to 1970 where there would be

MR. JAGHER: Objection to form.
Q. You're eroding your capital and your equity?
A. Yeah. Yeah.
MR. JAGHER: Objection to form.
A. Which means your debt is increasing and your equity is reducing, because you still have to balance your balance sheet.
Q. Right. You get to the period in the hog cycle, you're coming into the spring of 2009, you're heading into that summer seasonality period --
A. Correct.
Q. -- where you were expecting higher prices?
A. Correct.
MR. JAGHER: Objection to form.
Q. But you end up with the swine flu, the demand is tamped down?
A. Correct.
Q. And so you don't have that -- that period of good margins for the summer of '09?
A. That is correct.
Q. So then you end up having to weather a longer economic downturn?

A. Correct.
Q. And some producers didn't make it?
A. That is correct.
MR. JAGHER: Objection to form.
Q. During that time period, do you recall a time period there in that summer 2009 period where the weaner pig market went down to less than $10 a head?
A. Yes. I couldn't specifically give you the date, but yes, there was times when weaner pigs were essentially free, FOB, or at the sow farm if you were willing to pay the freight to get those pigs, they would sell them to you for simply the cost of freight because that saved them the dilemma of needing to do mass euthanasia, which is a very demoralizing act for a farmer.
Q. Do you recall that there was, in fact, euthanization of weaner pigs in 2009?
A. I did not visualize it, but yes, I heard instances of it happening, yes.
Q. So that means that there were farrowing producers -- the weaner pig that they were producing had a negative value?
A. Correct.

Q. And so rather than trying to produce that pig, they were forced to euthanize those pigs?

A. Correct.

Q. Kill them?

A. Yes. Dispose of them as a dead carcass, yes.

Q. And then dispose of them en masse?

A. Yes.

Q. Because of how bad the market was for pork in that 2009 time period?

A. Yeah. The two --

MR. JAGHER: Objection to form.

A. Yeah. That is correct.

Q. Okay. That was unprecedented?

A. At that point it was unprecedented.

MR. JAGHER: Objection to form.

A. The only time we repeated that was two years ago during the plant shutdowns due to the -- the COVID pandemic of 2020.

Q. Yeah. And the plant shutdown issue was when the plants were shut down, the market hogs couldn't leave the finishing barns.

A. Correct.

Q. And so you couldn't move them out, so

A. So -- Yep. So that was a one-year marketing agreement. We started delivering the second week of January of this current calendar year, 2022. And that is -- expires at the end of this calendar year. So that is a one-year agreement to Wholestone Farms. That is in a quantity of 40,000 pigs that we will deliver during this calendar year to Wholestone Farms.
Q. So another 20 percent to Wholestone --
A. That is --
Q. -- of your total sales?
A. That is -- That is correct.
Q. And in terms of your sales to -- you said Big Stone Marketing?
A. Yes. So Big Stone Marketing --
Q. And that is JBS Swift?
A. Yep. Big Stone Marketing would be a third party that we sell through to access JBS Swift. We actually had been at 30,000 pigs per year. And I'm talking had been, I'm talking the recent past. We were served notice -- And that was in two separate agreements.
So we had two different Big Stone Marketing agreements. Each of them were for 15,000 pigs per year. And one of those

agreements expired March 31st of 2022. And so since March 31st or April 1st of this year our annual rate is 15,000 pigs per year to JBS Swift. And that will expire March 31st of 2023. So we will have -- at this point we have no marketing agreements with JBS Swift beyond March 31st of 2023.

Q. And that's right now about what, 10 percent of your sales?

A. So it would actually be a little less, since we're at a 15,000-pigs-per-year annual pace on annual marketings of about 220,000. So a little less than 10 percent today.

Q. Okay. And those four purchasers make up the entirety of your sales; is that correct?

A. So with the sum of those obligations, 90,000 to Hormel, 42,000 to Prestage, 40,000 to Wholestone, we're talking 172. I'm doing math in my head. And then another 15,000. That would be 187,000 pigs per year is what we are contractually obligated to deliver in sum to those four processors.

And we are marketing 220,000 annually. So everything above and beyond that 187,000-pigs-per-year figure would be sold on

what we call an open market or negotiated or spot market basis, multiple terms that refer to uncommitted pigs and how they are priced and traded.

Q. Okay. You stated that you had sold to Tyson before; is that correct?

A. Yes. We actually were in a marketing agreement with Tyson for a number of years. Began in the late '90s. Approximately 1997. And we maintained that relationship through 2010.

Q. Okay. And you don't sell to them anymore; correct?

A. Only on an open market basis. Meaning when we have excess production available, excess sales available, we will negotiate and offer them to Tyson. Occasionally they will be rewarded with a purchase, but we have entered into an agreement to begin delivering pigs to Tyson on a marketing agreement at the pace of 20,000 pigs per year. And that begins October 1st of 2022.

Q. And the last time you had a contract with Tyson was in 2010, you said?

A. Yes. It expired December 31st of 2010.

Q. Okay. And you said you no longer sell to Smithfield; is that correct?

A. That is correct. And actually, the reason, if you want that, why we no longer ship to Tyson is because in the interim there, from late -- I'm going to say 2008, 2009, we began a marketing agreement with Smithfield. Actually, at the time I called them John Morrell, but they now are Smithfield universal across all the plants they operate.

But that -- that agreement started roughly 2008, '9. I'm -- I'm a little fuzzy on the exact start of that agreement. And that went through 2016. We have not had a marketing agreement with Smithfield since 2016.

Q. Okay. And then same with Seaboard, you're no longer selling to Seaboard; is that correct?

A. We have never had a marketing agreement. And so if and when we sell to Seaboard, it is on a negotiated or spot market basis only.

Q. And so when you sold to Smithfield from '08 to 2016, roughly what percentage of your sales went to Smithfield?